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Council Ref:MF/G1/PD/11/A/217

R M Conway Esq BA MCOIB MBIM
20 Belvedere Road
TAUNTON
Somerset
TA2 7BY

Your reference

Our reference
T/APP/D3315/C/85/2139/P6

Date
9 DEC 85

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEAL BY [redacted]
LAND AND BUILDINGS AT INGLENOOK, STOKE ST MARY

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This is against an enforcement notice issued by the Taunton Deane Borough Council concerning the above mentioned land and buildings. I have considered the written representations made by you and by the council, the Parish Council and also those made by interested persons and I inspected the site on 4 November 1985.

2. a. The date of the notice is 7 June 1985.

b. The breach of planning control alleged in the notice is:

i. the making of a material change in the use of the land to a mixed use for residential and the purposes of a depot for a roofing repair business; and

ii. the carrying out of building operations, namely, the erection of a wooden building without the grant of planning permission.

c. The requirements of the notice are:

i. to discontinue the use of the land for the purposes of a depot for a roofing repair business and to remove all materials associated with such business; and.

ii. demolish the building and remove all materials arising from such demolition.

d. The period for compliance with the notice is:

i. 3 months.

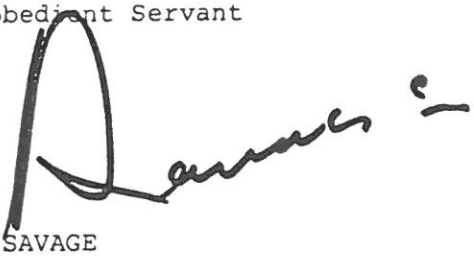
ii. 4 months.

e. The appeal was made on grounds 88(2)(a) and (b).

3. The appeal site is located in Stoke Lane, a cul-de-sac, off Stoke Road, in an area of open countryside, south-east of Taunton, and close to the M5 motorway. In the cul-de-sac there are 3 other bungalows the nearest being Mountain Ash.

This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against the decision are enclosed for those concerned.

I am Sir
Your obedient Servant



T A K SAVAGE
Inspector

ENC

4. You have appealed on ground (b) in respect of the allegation in the notice referring to a material change of use, to a mixed use, ie residential and a depot for a roofing and repair business. I find your submissions on this point short of substance and to some extent inaccurate. At my site inspection, it was stated by [redacted] that he was not "in work" following injuries in a traffic accident; he lived in [redacted] and that [redacted] lived in "Inglenook".

5. My inspection revealed that a significant quantity of roofing/building materials were kept on the site. These included tiles, slates, scaffolding, ladders, bitumen & Propagas cylinders, guttering, piping, sand, gravel, lead, roofing felt, insulating material, knee pads and a roof tiler's bag or satchel. This range and quantity of material far exceeds - on any reasonable view, what might be used by a do-it-yourself home owner. There is also some contradiction in the grounds of appeal, that [redacted] is a one man business operating from home.

6. These facts, taken together with the evidence before me, leads me to the view that as a matter of fact and degree, a material change of use has taken place. The use of the dwelling Inglenook for the storage and operating base (or depot) as a roof repairer amounted to development for which planning permission was required. Since such permission was not obtained, a breach of planning control resulted. The appeal on ground (b) fails.

7. On planning merit, I consider the main issue to be the effect of the breaches of planning control on the amenities of neighbouring dwellings and the character of the area.

8. The evidence shows that the operation of a roofing repair business has caused complaints to the Parish Council and the owner of the neighbouring dwelling Mountain Ash. Having regard to the council's policy for the area, and the particular circumstances of the appeal site, I take the view that this activity has potential for significant noise, disturbance and nuisance. I am in no doubt that Inglenook is an inappropriate location for such a business. For these reasons, I do not propose to grant planning permission for a change of use on the application deemed to have been made under Section 88B(3) of the Act.

9. The second part of the allegation is concerned with the erection without planning permission of the wooden building. You appeal on ground (a) in respect of this building. I accept your submission that the effect on the adjacent dwelling is negligible. This is an Alpine type hut and although it rises above the boundary fence, I cannot - in reason - accept that it causes any significant detriment to the occupants of the dwelling Mountain Ash, or the area as a whole. Indeed it complements the attractive appearance and style of Inglenook. To this extent and in respect of the wooden building, the appeal on ground (a) succeeds. Provided it is used only in connection with the enjoyment of the dwelling as such, I see no planning objection to its retention. Accordingly, I shall grant planning permission for its retention subject to a condition.

10. I have considered all the other matters raised, but they do not affect my decision.

FORMAL DECISION

11. For the above reasons and in exercise of the powers transferred to me, I hereby grant planning permission for the retention of the wooden building at 'Inglenook', Stoke St Mary subject to the condition that the building shall solely be used in connection with the residential use of Inglenook. Subject thereto I dismiss the appeal, uphold the notice and refuse to grant planning permission on the application deemed to have been made under section 88B(3) of the Act.

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT, 1971

ENFORCEMENT NOTICE

To: [redacted]

Of:

WHEREAS:-

1. You are the owner and/or occupier of land at "Inglenook", Stoke Lane, Stoke St. Mary in the Borough of Taunton Deane in the County of Somerset which is more particularly delineated on the attached plan and thereon edged red ("the Land")

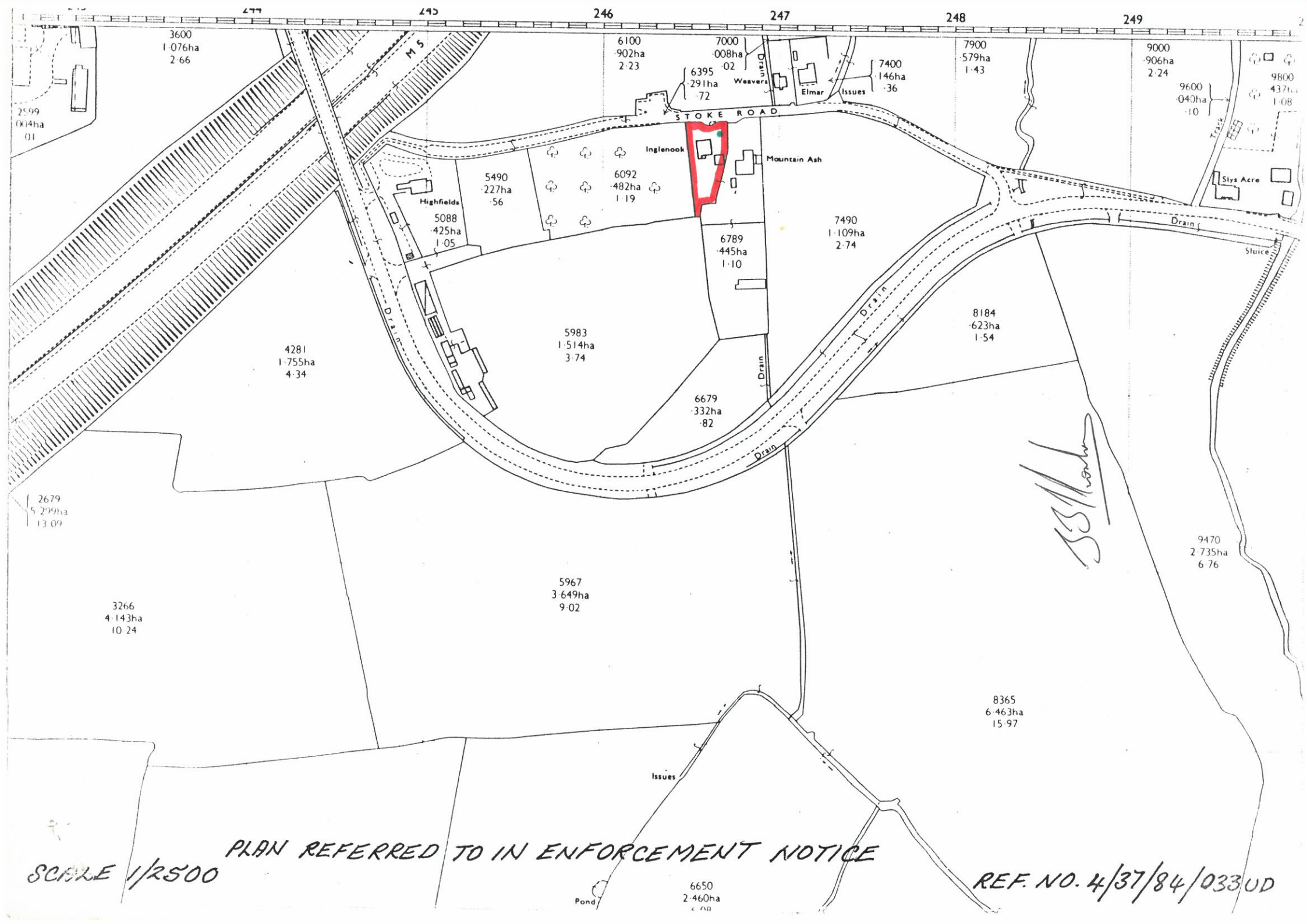
2. The TAUNTON DEANE BOROUGH COUNCIL ("the Council") are the District Planning Authority and exercise the functions of the Local Planning Authority for the purposes of the provisions of Section 87 of the Town and Country Planning Act, 1971 ("the Act")

3. It appears to the Council that after the 31st day of December, 1963 there has been a breach of planning control in that the Land has been developed by the making of a material change in the use thereof to a mixed use for residential purposes and for the purposes of a depot for a roofing repair business without the grant of permission required in that behalf under Part III of the Act

4. It further appears to the Council that within the period of four years before the date of this notice there has been a breach of planning control in that the Land has been developed by the carrying out thereon of building operations, namely the erection of a wooden building thereon in the position shown shaded green on the attached plan ("the building") without the grant of permission required in that behalf under Part III of the Act

5. The Council consider it expedient having regard to the provisions of the Structure Plan and to all other material considerations to issue this enforcement notice in exercise of their powers contained in Section 87 of the Act for the reasons set out in the Annex to this notice

NOW THEREFORE TAKE NOTICE that in exercise of their powers contained in Section 87 of the Act the Council HEREBY REQUIRE YOU to take the following steps in order to remedy the aforesaid breaches of planning control:-



PLAN REFERRED TO IN ENFORCEMENT NOTICE

SCALE 1/2500

REF. NO. 4/37/84/033UD

(a) Within a period of three calendar months beginning with the date on which this notice takes effect to:-

(i) Discontinue the use of the Land for the purposes of a depot for a roofing repair business; and

(ii) Remove all roofing materials, equipment, plant and vehicles used in connection with the roofing repair business from the Land

(b) Within a period of four calendar months beginning with the date on which this notice takes effect to:-

(i) Demolish the building; and

(ii) Remove from the Land all materials arising from such demolition.

THIS NOTICE SHALL TAKE EFFECT subject to the provisions of Section 88(10) of the Act

ON THE SEVENTEENTH DAY OF JULY 1985
DATED THIS SEVENTH DAY OF JUNE 1985

Signed.....

Secretary and Solicitor

Municipal Buildings,
Taunton,
Somerset.

Ref: GW/PD11/A/217

YOU ATTENTION IS DRAWN TO THE RIGHTS OF APPEAL AGAINST AN ENFORCEMENT NOTICE contained in Section 88 of the Act which are set out in the explanatory booklet "Enforcement Notice Appeals - A Guide to Procedure" enclosed herewith

THE ANNEX hereinbefore referred to

Reasons why the Council consider it expedient to issue an Enforcement Notice in respect of the aforesaid breaches of planning control

(1) The unauthorised material change in the use of the Land represents an undesirable introduction of commercial development in a rural area to the detriment of the character and amenities of the area and is particularly detrimental to the amenities of nearby residents by reason of the unauthorised activities including the traffic movements generated by the unauthorised development.

(2) The building by reason of its prominent siting is detrimental to the visual amenities of an attractive rural area and has a particularly detrimental effect on the outlook of the occupiers of the adjoining residential property "Mountain Ash"

Dated this SEVENTH day of JUNE 1985

Signed.....

Secretary and Solicitor

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